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By Electronic Filing on Both Dockets

December 16, 2022

Hon. Lorna G. Schofield, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS)
Sport-BLX, Inc. v. Salerno, et al., Docket No. 22-cv-08111 (LGS)**

Dear Judge Schofield,

This firm represents Plaintiff Cypress Holdings, III, L.P. (“Cypress”) in the action entitled *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS) (the “Cypress Action”). This firm also represents Defendants Michael M. Salerno (“Salerno”), Northeast Professional Planning Group, Inc. (“NPPG”), and Cypress (collectively, the “Cypress Defendants”) in the related action entitled *Sport-BLX, Inc. v. Salerno, et al.*, Docket No. 22-cv-08111 (LGS) (the “Sport-BLX Action”). On October 13, 2022, Your Honor ordered that the Cypress Action and the Sport-BLX Action be “coordinated for purposes of discovery.” (Cypress Docket, ECF No. 56; Sport-BLX Docket, ECF No. 11). Pursuant to Paragraph 13(a) of the Civil Case Management Plan and Scheduling Order entered in these actions, I, along with other counsel to the parties to these actions, submit this Joint Status Letter in accordance with Rule IV.A.2 of Your Honor’s Individual Rules and Procedures for Civil Cases (“Individual Rules”).

Discovery

On November 7, 2022, Cypress Action Defendant/Sport-BLX Action Plaintiff Sport-BLX, Inc. (“Sport-BLX”) and Cypress Action Defendant George Hall (“Hall”) propounded joint Requests for the Production of Documents and a joint First Set of Interrogatories on the Cypress Parties.

On November 21, 2022, pursuant to an agreement amongst the parties, Cypress Action Defendant GlassBridge Enterprises, Inc. (“GlassBridge”) propounded its First Set of Document Requests and its First Set of Interrogatories on Plaintiff Cypress. On that same date, Cypress Action Defendant Joseph De Perio (“De Perio”) also propounded his First Requests for the Production of Documents and his First Set of Interrogatories on Plaintiff Cypress. Responses and objections to those Requests for Production and Interrogatories are due December 21, 2022.

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On November 22, 2022, Cypress propounded its First Request for the Production of Documents and First Set of Interrogatories, separately, on Defendants Hall, De Perio, and GlassBridge. On that same date, the Cypress Parties propounded their First Request for the Production of Documents and First Set of Interrogatories on Sport-BLX. Responses and objections to those Requests for Production and Interrogatories are due December 22, 2022.

On December 7, 2022, the Cypress Parties served their written responses and objections to Sport-BLX's and Hall's Requests for the Production of Documents and First Set of Interrogatories. On December 15, 2022, Sport-BLX and Hall sent the Cypress Parties a letter requesting to meet and confer regarding the Cypress Parties' responses and objections.

On December 7, 2022, the Cypress Parties expressed their desire that a confidentiality order governing the production and exchange of confidential information be in place prior to the responsive documents identified in their written responses and objections being produced. To that end, the Cypress Parties prepared a Stipulation and Proposed Order Governing the Production and Exchange of Confidential Information (the "Proposed Confidentiality Order"), which the Cypress Parties circulated to counsel for proposed revisions, additions, and/or comments on December 8, 2022. Counsel for De Perio and Sport-BLX/Hall circulated proposed revisions to the Proposed Confidentiality Order on December 9, 2022 and December 14, 2022, respectively. The parties have reached agreement concerning the terms of the Proposed Confidentiality Order and will be filing it with the Court shortly for Your Honor's consideration. As the Proposed Confidentiality Order has not yet been submitted to the Court for consideration, the Cypress Parties have not yet produced any documents responsive to Sport-BLX's/Hall's discovery demands. In addition, responses to the discovery demands propounded by the other parties to these actions are not due until December 21, 2022. The parties expect their respective productions to be made shortly after entry of the Proposed Confidentiality Order, should said Order meet Your Honor's approval.

Procedural History

1. The Cypress Action – Docket No. 22-cv-01243 (LGS)

On February 14, 2022, Defendants Sport-BLX, GlassBridge, Hall and De Perio filed a Notice of Removal pursuant to 28 U.S.C. § 1441, *et seq.* and Local Rule 81.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (the "Local Rules"), to remove the Cypress Action, then pending in the Supreme Court of the State of New York, New York County, Index No. 650179/2022, to the United States District Court for the Southern District of New York (ECF No. 2). On March 4, 2022, pursuant to Rule III.C.2 of the Individual Rules, Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge filed separate pre-motion letters expressing their intentions to file separate motions to dismiss Cypress' Complaint (ECF Nos. 7, 8). On April 7, 2022, Plaintiff Cypress filed a First Amended Complaint ("FAC") (ECF No. 17). On April 14, 2022, Defendants Sport-BLX, Hall and De Perio filed a pre-motion letter expressing their intention to file a motion to dismiss Cypress' FAC (ECF No. 18). On that same date, Defendant GlassBridge submitted a pre-motion letter to the Court wherein it sought a pre-motion conference in anticipation of its filing of a motion to disqualify Cypress' then-counsel, Fox Rothschild LLP ("Fox

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Rothschild”), and advised the Court of its intention to file a motion to dismiss the FAC (ECF No. 19). On April 25, 2022, the Court ordered that Defendants Sport-BLX, Hall and De Perio file their motion to dismiss and that Defendant GlassBridge file its motion to dismiss and to disqualify Plaintiff’s counsel by May 24, 2022 (ECF No. 23). Prior to that date, on May 13, 2022, counsel for Sport-BLX, Hall and De Perio advised the Court via letter that those Defendants wished to join in GlassBridge’s contemplated disqualification motion (ECF No. 24). Counsel further requested that the Court stay the briefing schedule on its motion to dismiss pending a ruling on the forthcoming disqualification motion. On May 16, 2022, the Court ordered that Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge each file a separate motion for disqualification by May 31, 2022 (ECF No. 25). The Court further ordered that the briefing schedule for Defendants’ proposed motions to dismiss be stayed until further order of the Court. On May 31, 2022 in accordance with the Court’s Order, Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge filed their respective motions to disqualify (ECF Nos. 26, 29). Cypress filed its opposition to those motions on June 21, 2022 (ECF No. 36) and Defendants filed their respective reply briefs on June 28, 2022 (ECF Nos. 38, 42). On August 23, 2022, the Court entered an Opinion and Order (1) granting Defendants’ motions to disqualify Fox Rothschild as counsel for Cypress and (2) staying discovery in the Cypress Action for thirty days to permit Cypress to secure substitute counsel (ECF No. 46). This firm entered its appearance on behalf of Cypress on September 22, 2022 (ECF No. 48).

Both Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge still intend to move to dismiss Cypress’ FAC or any amended pleading filed by Cypress. In that regard, on October 24, 2022, as substitute counsel for Cypress in place of the disqualified Fox Rothschild, this firm circulated a draft Proposed Second Amended Complaint (“PSAC”) to the parties and inquired as to whether those parties would consent to its filing. On November 3, 2022, counsel for Sport-BLX and Hall advised that they would give their conditional consent to the filing of the PSAC based on a reservation of rights. On December 15, 2022, after discussions with counsel for proposed additional Defendant I Got It Holdings Corp. d/b/a Metabilia (“Metabilia”), as well as counsel for Sport-BLX and Hall, this firm circulated a revised PSAC to the parties and requested that those parties indicate their consent, or lack thereof, to the filing of the revised PSAC by December 19, 2022. In the event such consent to file the revised PSAC is withheld, Cypress intends to promptly file a motion for leave to amend its pleading. In the event Cypress is successful in adding Metabilia as an additional defendant, Metabilia intends to move to dismiss all claims against it. Counsel for Metabilia has further notified counsel for Cypress of Metabilia’s position that the allegations and claims against Metabilia as set forth in the PSAC are frivolous, as same is defined in Rule 11 of the Federal Rules of Civil Procedure.

2. *The Sport-BLX Action – Docket No. 22-cv-08111 (LGS)*

On September 22, 2022, Defendants Salerno, NPPG and Cypress filed a Notice of Removal pursuant to 28 U.S.C. § 1441, *et seq.* and Local Rule 81.1 of the Local Rules, to remove the Sport-BLX Action, then pending in the Supreme Court of the State of New York, New York County, Index No. 652732/2022, to the United States District Court for the Southern District of New York (ECF No. 3). On October 4, 2022, the Cypress Parties filed an Amended Notice of Removal (ECF No. 6). On October 10, 2022, Plaintiff Sport-BLX filed a Letter Motion asking this Court to order the Cypress

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Parties to publicly disclose the identities of all partners of Cypress, or, in the alternative, to issue a summary remand. (ECF No. 10). On October 17, 2022, the Court entered an order granting in part and denying in part Sport-BLX's Letter Motion (ECF No. 14). Specifically, the Court ordered the Cypress Parties to "file a letter attaching one or more affidavits from a person or persons with personal knowledge attesting to the facts required to establish citizenship of each of the general and limited partners of [Cypress]. . . .The affidavits need not identify the names or locations of the persons or entities." In accordance with the Court's Order, the Cypress Parties submitted the Affidavit of Michael M. Salerno on October 28, 2022 (ECF No. 18).

The Cypress Parties intend to move to dismiss Sport-BLX's Complaint and will do so in accordance with Rule III.C.2 of the Individual Rules.

Plan to Ensure Discovery Deadlines are Met

All parties intend to produce responsive documents following entry of the Proposed Confidentiality Order, should said Order meet Your Honor's approval. GlassBridge, Sport-BLX, and Hall are in the process of collecting documents and are prepared to meet and confer with counsel for the Cypress Parties to establish reasonable search terms. Once the Proposed Confidentiality Order is filed and reasonable search terms have been established, GlassBridge, Sport-BLX, and Hall are prepared to undertake a targeted review of documents within their possession, custody, or control in accordance with their responses and objections, and subject to the agreed-upon search terms.

Further, all parties intend to schedule, conduct and complete factual depositions during the months of January/February 2023 and to conduct expert discovery thereafter if necessary.

Respectfully submitted,

/s/ A. Ross Pearlson

A. Ross Pearlson

Member

cc: All Counsel of Record (*via ECF*)